Supreme Court, U.S.
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OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

JAMES LEE MARTIN, PETITIONER

v.

UNITED STATES COURT
OF INTERNATIONAL TRADE

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A. May a judge hear an appeal from the decision of a issue tried by him?

B. Must Justice Alito be recused from this case in view of his serving as a trial judge when the same issue was before the Third Circuit, which exercised original jurisdiction and served as a trial court on the same issue?

C. May filing clerks impound various documents in proper format that have been received for filing, then return them without filing after a certiorari petition is ruled upon?

D. May an attorney, who requests a hearing, be subject to law license revocation, suspension, or disbarment, without a hearing, if the attorney is not the subject of any complaints about misconduct?

E. Is a federal court bound by the *Rooker-Feldman* doctrine in view of the recent decisions in *Marshall v. Marshall*, and in *Exxon Mobil*?

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JURISDICTION

The judgment to be reviewed was issued on 11-09-05, at 1a to 4a, and the petition for rehearing, and suggestion for rehearing *en banc*, was denied on 2-13-06, at Ex-5a to 6a. The time for filing a petition for a writ of certiorari was extended by order issued on 5-1-06, to 7-13-06. This Court's jurisdiction for review is at 28 USC Sec. 1254(1). Notification required under Rule 29.4(b) has been made.

RELEVANT PROVISIONS INVOLVED

28 USC Sec. 47, "No judge shall hear or determine an appeal from the decision of a case or issue tried by him."

F.R.A.P. 46(b) *Suspension or disbarment.* ". . . after hearing, if requested, ..."

STATEMENT

Basis for federal jurisdiction in the court below. The Court of Appeals has jurisdiction pursuant to 28 USC Sec. 1254(1), but all three of the judges on the panel below were ineligible to preside pursuant to 28 USC Sec. 47.

Facts. In a letter dated 5-12-05 to me, Clerk Jan Horbaly wrote:

> "In the event that any of the [13] judges mentioned above are assigned to hear your appeal, your motion to recuse will be forwarded to that judge for a ruling. If one of the named judges is not named to the panel, that judge will not rule on the motion."
>
> 21a. The judges named in this Motion participated in the decision dated 8-1-97, when the same issue was before the Federal Circuit, which served as a trial court. The decision says the issue for trial was ". . . referred to the circuit judges who are in regular active service, ..."

Justice Alito served as a trial judge on the same issue when it was before the Third Circuit at *IN RE: James L. Martin*, No. 97-8096. Ordinarily, a Motion to Recuse would be filed under Sec. 47, but because the Supreme Court's filing clerks consistently interfere with filing such motions, the issue will be raised in the certiorari petition as well. For example, Assistant Clerk Cynthia Rapp wrote to me in a letter dated 4-10-00: "Furthermore, a Justice will *sua sponte* recuse him or herself if it is appropriate." Three months later, after I docketed the certiorari petition entitled *Martin v. Walmer, et. al.*, No. 99-2009, and after I filed another Motion to Recuse and to Disqualify the late Chief Justice Rehnquist, Assistant Clerk Francis J. Lorson wrote to me in a letter dated 7-10-00:

> "Your motion for the Chief Justice to recuse himself was received and has been circulated to the Court for its information. Such motions are not placed on this Court's docket."

This pattern continues. Assistant Clerk Troy D. Cahill returned, without filing, my Application for Stay of Enforcement that was received in the Clerk's Office on 9-16-05, at *IN RE: James Lee Martin*, 05-141. He wrote, "It appears this same application was previously filed on July 18, 2005, and subsequently denied by Justice Thomas on July 26, 2005." I responded in writing on 9-23-05: "The renewed Application for Stay is allowed under Rule 22.4 . . .." Clerk Cahill impounded the Application for Stay, instead of transmitting it as required under Rule 22.4. In a letter dated 10-11-05 to me, he wrote, "Your application for a stay of enforcement received October 5, 2005, is herewith returned for the following reason(s): The petition for a writ of certiorari relating to this matter was denied by order of the Court on October 11, 2005."

Clerk Cahill has not been deterred, and he continues to contravene the rules of court. In a letter to me dated 6-2-06, he claimed: "It appears that the time for filing a petition for a writ of certiorari has expired." I responded: "The time for filing a petition for a writ of certiorari has been extended by order of court until July 13. See Ex-1a." A series of such letters from Cahill discloses a recurring problem that should be forthwith enjoined.

The abuses of procedural rules rival those of substantive law. The trial court Opinion, at 9a, reads: "Mr. Martin is correct in that no misconduct per se on his part caused the Third Circuit to revoke his membership and this Court to initiate reciprocal proceedings." Despite claims that I do not have standing in other federal courts, I have filed Certificates of Good Standing from other federal courts.

The trial judge chose to disregard them, and instead claims to have contacted an admissions clerk:

> ". . . Mr. Martin claims that he is 'a member in good standing in the [US Court of Appeals for the] Seventh Circuit,' presenting a copy of the Certificate of Good Standing issued by the Seventh Circuit on July 28, 2004. . . . The court contacted the Clerk's Office of the Seventh Circuit and was informed that, although Mr. Martin is still a member of that court's bar, he is currently subject to certain disciplinary proceedings."
>
> 18a. I know of no such disciplinary proceedings, and was not able to confront or cross-examine the clerk the trial judge allegedly contacted, was not informed about the plan to contact any such clerk, and was not a party to any communication between the trial judge and the clerk.

The interference with my standing in the state bar relates back to the misconduct of Mary Maudsley, who was a panel member on the NJ Supreme Court's Character Committee, and involved in falsifying my testimony to make the transcript read as if I were mentally unbalanced. Reporter Toutant's 11-8-04 article in the *New Jersey Law Journal* describes her lies to her own clients, her legal malpractice, and her agreement to pay $100,000 to defray the losses she caused her clients. Maudsley was Chair of the Disciplinary Review Board when her malpractice occurred in 2004.

I saw an internal memo from the NJ Supreme Court, casually left in open view during a break, that concluded I was ineligible for state bar admission before anyone said anything. However, before the hearing began, I had already been formally admitted to practice, and had been issued a Certificate of Good Standing, and had then, as now, an unblemished lifetime record.

I brought Maudsley's recent misconduct before the Ethics Committee of the NJ Supreme Court, which referred it to the Clerk, because of the conflicts of interest. The Clerk claimed I had ". . . no standing to file a grievance based on a newspaper article . . .." My claim was largely based on tape-recorded testimony, and the official transcipt showing Maudsley role in fafsifying the sworn testimony. An appeal to the NJ Supreme Court resulted in a decision on 6-22-06, at 24a, that I have "no standing to proceed . . .

Related Cases

In Re: James L. Martin, No. 02-80003, 9th Cir. The trial court judge alleges that I am the subject of a revocation proceeding in the Seventh Circuit, but I am not aware of any such case, and have been issued a Certificate of Good Standing from that court.

REASONS FOR GRANTING THE PETITION

A. A judge may not hear or determine an appeal from the decision of a case or issue tried by him.

A recusal statute, 28 USC Sec. 47, enjoins a judge from serving as both a trial judge and an appeals

judge on the same issue, I moved to recuse Judges Paul R. Michel, Pauline Newman, Haldane Robert Mayer, Alan D. Lourie, Raymond C. Clevenger, III, Randall R. Rader, Alvin A. Schall, William Curtis Bryson, Arthur J. Gajarsa, and Senior Judges Daniel M. Friedman, Glenn Leroy Archer, Jr., S. Jay Palger, and Wilson Cowen, who participated in the decision dated 8-1-97, when the same issue was before the Federal Circuit, which served as a trial court. The decision says the issue was ". . . referred to the circuit judges who are in regular active service, ..."

In a letter dated 5-12-05 to me, Clerk Jan Horbaly wrote:

> "In the event that any of the [13] judges mentioned above are assigned to hear your appeal, your motion to recuse will be forwarded to that judge for a ruling. If one of the named judges is not named to the panel, that judge will not rule on the motion."

> 21a. Despite this description of the procedure under which the thirteen judges were to rule on my Sec. 47 recusal motion, a deputy clerk issued an order to deny the motion as to all the judges, with no indication that it had ever been brought before them. 22a. Partly to ensure against a clerical error, I moved to strike or vacate the order, but that motion was also denied, again without any involvement of any of the judges sought to be recused. 23a.

B. Justice Alito must be recused and disqualified from this case in view of his serving as a trial judge

when the same issue was before the Third Circuit, which exercised original jurisdiction and served as a trial court on the same issue.

See 28 USC Sec. 47. In response to Senators Leahy and Lieberman, the late Chief Justice Rehnquist wrote, on 1-26-04, ". . . [A]ny party to a case may file a motion to recuse." If any party could file a motion to recuse, this issue would not be raised in the certiorari petition. Because any party can present a motion to recuse, and because the filing clerks do not file such motions, but rather stamp them as being "received," or impound them without filing until after the certiorari petition is ruled on, at which point they are returned without filing. certiorari should be granted to ensure that properly presented legal documents are not just stamped "received," but are also filed promptly.

C. Filing clerks should be enjoined from impounding or returning motions, applications, and other documents that have been received for filing, and that conform to both procedural rules and substantive law.

The continuing practice described here is recurring, but evades routine review because the misconduct arises in this court. The undermining of routine applications, as those for stay and for recusal, should not be allowed to occur in the first place. The efforts to sabotage access to the court parallel those of judges and of court reporters, who falsify court transcripts and are protected under judicial immunity. Because these practices affect core judicial processes, they should not only be enjoined, but the staff

responsible for such deliberate misconduct should be dismissed.

D. The Court is without authority to suspend or disbar an attorney, or to revoke an attorney's admission, without a hearing if it is requested.

Rule 46 governs eligibility for admission to the bar, as well as suspension or disbarment. No provision appears anywhere for "revocation," a transparent ploy to deprive an attorney of the safeguards supposed to be afforded during a "hearing, if requested." FRAP 46(b) and (c). I requested a hearing, but the court denied my request without any lawful basis for doing so. In addition, the courts below enjoined discovery. Although the United States Court of International Trade was supposed to be exercising exclusive and original jurisdiction over issues arising in this case, the Court allowed the US District Court in Delaware to interfere by quashing subpoenas I issued to witnesses with original knowledge about how and why my name was expunged from the list of licensed attorneys without notice, hearing, or cause. The Delaware judge may be the subject of a petition for a writ of mandamus or of prohibition if certiorari is not granted to resolve the conflicts among the circuits about my eligibility to remain in good standing, and to have the official roster in various courts reflect that fact where I have been formally admitted, or where I should have been admitted but for the abuses recited.

E. A federal court is not bound by the *Rooker-Feldman* doctrine in view of the recent decisions in *Marshall v. Marshall*, and in *Exxon Mobil*.

Throughout the opinions below, reliance is placed on the *Rooker-Feldman* rule, that orders of a state court may be reviewed only by certiorari to the Supreme Court, and not by a parallel action in federal court. Ex-11a, 14a, and 20a. According to Justice Stevens' concurring opinion in *Marshall v. Marshall*, 547 US ___ (2006), ". . . I would pro ide the creature [probate exception] with a decent burial in a grave adjacent to the resting place of the *Rooker-Feldman* doctrine." Likewise, the interim decision in *Exxon Mobil Corp., et. al. v. Saudi Basic Industries Corp.*, 544 US 280, 292 (2005), says ". . . *Rooker-Feldman* does not apply to parallel state and federal litigation." I did not ask the federal court to reverse the decision of any state court. To the contrary, after I was properly sworn in to practice law in the federal court, I asked the federal court to provide due process as required by its own precedent and rules, prior to revoking my law license. Under *Rooker-Feldman*, a disgruntled state court litigant becomes a plaintiff in federal court to relitigate the same issues. I am not a plaintiff in federal court, but rather a defendant, called on to defend my standing as an attorney, even though no misconduct has been alleged against me. That fact along renders the *Feldman* rule inapplicable.

Even if Feldman were not obsolete and inapplicable here, FRAP 46(a) allow federal attorneys to be admitted to federal courts, without regard to whether they are active members of any state bar. See *Surrick v. Killion, et. al.*, No. 04-5668, ED, PA, (CJ Giles). Judge Giles addressed the question about whether a federal court is bound by the decision of a state court regarding the standing of an attorney to practice: "The federal law at issue in the present action

is the inherent power of each federal court to regulate and control its own bar. See 28 USC Sec. 2071 (2000), ..." A decision from the state court, about whether an attorney is admitted or not, is not binding on the federal courts. *Theard v. United States*, 354 US 278 (1956).

CONCUSION

Certiorari should be granted to resolve the conflict among the circuits, the misplaced reliance on *Rooker-Feldman*, and the summary disbarments without notice, hearing, or cause.

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(any footnotes trail end of each document)

05-1226

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

IN RE JAMES L. MARTIN

November 9, 2005, Decided

JUDGES: Before NEWMAN, RADER, and BRYSON, Circuit Judges.

OPINION: PER CURIAM.

James L. Martin appeals from the decision of the Court of International Trade revoking his admission to the bar of that court. In re Martin, Misc. No. 04-00002. We affirm.

Mr. Martin has a long history of litigation over his membership in the bars of various state and federal courts. In 1997, this court revoked his membership in the bar of this court in an opinion that summarized the course of that litigation up to that date. In re Martin, 120 F.3d 256 (Fed. Cir. 1997). Mr. Martin was originally admitted to the bar of this court based on a certificate of good standing issued by the United States Tax Court in 1995. His admission to that court was in turn premised on a certificate of good standing from the New Jersey Board of Bar Examiners issued in 1984.

In the 1997 order of this court revoking his membership in the bar of this court, we noted that Mr. Martin was informed within a month after his admission to the New Jersey state bar that he was not admitted to that

state's bar and that the issuance of the certificate of good standing was in error. Because Mr. Martin did not dispute those facts and because he failed to show that he was a member in good standing of the bar of any state or that he was admitted to practice before the highest court of any state, this court ruled that his admission to the bar of this court was granted in error. We therefore revoked his membership. In re Martin, 120 F.3d at 258-59.

Mr. Martin's membership in the bar of the United States Court of Appeals for the Third Circuit was subsequently revoked ab initio. His membership in the bar of that court had been predicated on his membership in this court's bar. Because the Third Circuit found that there was no proper predicate for Mr. Martin's admission to its bar, it revoked his membership in that bar.

The Court of International Trade subsequently issued an order to show cause why Mr. Martin's membership in the bar of that court should not be revoked, since his membership in that court's bar was predicated on his membership in the bar of the Third Circuit. After giving Mr. Martin an opportunity to respond, the Court of International Trade revoked his bar membership. In an opinion, the court ruled that Mr. Martin was admitted to the court's bar based on a mistaken factual premise and that the record indicated that he had never been properly admitted to any state bar to support his membership in the bar of any federal court. The mistaken factual premise, the court explained, "was resolved by the Third Circuit's ab initio revocation of Mr. Martin's admission to its court's bar." Because Mr. Martin did not present evidence of being a member in

good standing of a state bar or a federal court bar to support his admission and membership in the bar of the Court of International Trade, the court revoked his admission to the court's bar ab initio. On Mr. Martin's motion for reconsideration, the court rejected his collateral challenge to the Third Circuit's decision revoking his admission to the bar of that court, and it rejected his argument that his membership in the court's bar should not be revoked because he was still a member of the bar of other federal courts of appeals.

On appeal to this court, Mr. Martin raises a variety of claims, most of them having no relevance to the single narrow issue that was before the Court of International Trade-whether there was any valid predicate for his membership in the bar of that court. Having reviewed Mr. Martin's submissions and the pertinent prior decisions relating to this matter, we are satisfied that the Court of International Trade did not commit error in concluding that Mr. Martin failed to show that he is a member of good standing of any state bar and in ruling that his membership in the bar of that court was based on a mistaken factual predicate. Mr. Martin contends that he "was admitted to the state bar . . . and was neither suspended nor disbarred from the state bar." However, both this court in 1997 and the Court of International Trade in the proceedings here under review concluded that the certificate of admission to the New Jersey bar was issued in error and that the error was corrected promptly thereafter. As a result, both courts concluded that Mr. Martin has never actually been a member in good standing of the bar of New Jersey or authorized to practice before the highest court of that state. Mr. Martin has failed to offer any persuasive reason to conclude either that that factual

determination is erroneous or that it does not justify revocation of his admission to the bar of the Court of International Trade. We therefore uphold the decision of the Court of International Trade revoking Mr. Martin's admission to the bar of that court and striking his name from the roster of attorneys admitted to practice before that court.

05-1226

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

IN RE JAMES L. MARTIN

February 13, 2006, Decided

February 13, 2006, Filed

NOTICE: THIS DECISION WAS ISSUED AS UNPUBLISHED OR NONPRECEDENTIAL AND MAY NOT BE CITED AS PRECEDENT. PLEASE REFER TO THE RULES OF THE FEDERAL CIRCUIT COURT OF APPEALS FOR RULES GOVERNING CITATION TO UNPUBLISHED OR NONPRECEDENTIAL OPINIONS OR ORDERS.

OPINION: ORDER

A combined petition for panel rehearing and for rehearing en banc having been filed by the Appellant, and the petition for rehearing, having been referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc having been referred to the circuit judges who are in regular active service,

UPON CONSIDERATION THEREOF, it is

ORDERED that the petition for panel rehearing be, and the same hereby is, DENIED and it is further

ORDERED that the petition for rehearing en banc be, and the same hereby is, DENIED.

The mandate has already issued.

Court No.: Misc. 04-00002
UNITED STATES COURT OF INTERNATIONAL TRADE

HON. JUDITH M. BARZILAY, JUDGE

IN THE MATTER OF JAMES L. MARTIN

MEMORANDUM ORDER

This matter involves James L. Martin's admission to practice as an active member in good standing of this Court's bar. It has been referred to this court for formal adjudication pursuant to USCIT Rule 74(e)(4)(B). The Court's Order to Show Cause dated July 26, 2004 directed Mr. Martin to inform the Court why his admission to practice should not be revoked following the decision of the U.S. Court of Appeals for the Third Circuit revoking his membership ab initio. Mr. Martin responded by filing three motions: a Motion to Dismiss, a Motion for Appointment of Investigative Counsel under Rule 74(e)(5) and a Motion for Sanctions. For the reasons stated herein, Mr. Martin's motions are denied, and Mr. Martin's admission to this Court is revoked ab initio.

James L. Martin was admitted to this Court's bar on December 9, 1996 based on his admission to the U.S. Court of Appeals for the Third Circuit. Mr. Martin's membership in the bar of the Third Circuit was in turn predicated on his membership in the bar of the U.S. Court of Appeals for the Federal Circuit. See In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 1 (3d Cir. Mar. 16, 1998) (unpublished Memorandum Order). On March 16, 1998, the Third Circuit revoked ab initio

Mr. Martin's membership following the revocation of Mr. Martin's membership in the U.S. Court of Appeals for the Federal Circuit. Id. at 8. The Third Circuit found that Mr. Martin had no factual predicate for admission to its bar because Mr. Martin had not been properly admitted to any state bar or to practice before the highest court of a state.[1] Id.

After receiving a copy of the Order from the Third Circuit of its revocation, the Clerk of this Court asked Mr. Martin if he wished to voluntarily remove his name from the roster of attorneys admitted to practice before the Court of International Trade. In response, Mr. Martin requested a stay of proceedings against him while he was challenging the denial of his admission to the Pennsylvania state bar. The Clerk granted Mr. Martin's request with the condition that he provide periodic status reports concerning the Pennsylvania action. On July 23, 2004, Mr. Martin requested an updated Certificate of Good Standing from this Court. Pursuant to USCIT Rule 74(e), the Court Clerk properly served Mr. Martin with a Notice and Order to Show Cause why the Court should not revoke his membership based on the decision of the Third Circuit.

At issue in this case is the validity of Mr. Martin's initial admission to this Court and his eligibility to remain a member without underlying membership in any state bar or admission to and good standing in another federal court bar. USCIT Rule 74(a) delineates attorney qualifications for admission to practice before this Court: "An attorney of good moral character who has been admitted to practice before the Supreme Court of the United States, the highest court of any

state, the District of Columbia, a territory or possession, any United States court of appeals, or any United States district court, and is in good standing therein, may be admitted to practice before this court." It has been well established that the membership in a state bar or admission to practice before the highest court of a state is a prerequisite to the initial admission to a federal court's bar. See In re James Lee Martin, 120 F.3d 256, 258 (3d Cir.1997) (citing In re Ruffalo, 390 U.S. 544, 547 (1968); Theard v. United States, 354 U.S. 278, 282 (1957)). Subsequent admission to a federal court's bar can be based on good standing in another federal court's bar. See id. at 259. However, an attorney's membership in a federal court can be revoked where the member had never been admitted to any state bar, despite an erroneous issuance of a certificate of good standing by one state. Id.

In the present case, Mr. Martin was admitted to this Court based on a mistaken factual predicate. See discussion supra note 1. The record indicates that he has never been properly admitted to any state bar to support his membership in the bar of any federal court. Id. However, as observed by the Third Circuit, Mr. Martin "has woven a pattern of Bar memberships, supported by routinely issued certificates of good standing, but no State Bar membership as a foundation." In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 7. The U.S. Court of Appeals for the Federal Circuit, the U.S. Tax Court, and the U.S. Court of Appeals for the Third Circuit have since revoked Mr. Martin's admissions to their respective bars due to the lack of his underlying state bar membership. See, e.g., In re James Lee Martin, 120 F.3d at 259; In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 10;

Martin v. U.S. Tax Court, No. 99-1382, 1999 U.S. App. LEXIS 34716, at *1 (D.C. Cir. Dec. 15,1999) (holding that because the petitioner "failed to submit valid proof of his New Jersey State Bar membership upon which his admission to practice before the Tax Court was based, the Tax Court properly revoked appellant's admission to practice."). Furthermore, Mr. Martin has not presented any evidence of being a member in good standing of any other federal court.[2] See, e.g., In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 10. Consequently, Mr. Martin no longer has any basis to support his membership in this Court's bar.

Mr. Martin was given an opportunity to show cause why his admission to this Court should not be revoked. In response to the Order to Show Cause, Mr. Martin filed several motions. In his Motion to Dismiss, Mr. Martin fails to allege any basis for his membership in this Court, instead raising unrelated claims challenging the efficacy of an underlying state bar decision denying him admission. See Resp't Mot. Dismiss. Mr. Martin also claims that he cannot be subject to "disciplinary proceedings" under USCIT Rule 74(e)(4)(B) because "no misconduct has ever been alleged against [him]." Resp't Mot. Dismiss 16. Mr. Martin is correct in that no misconduct per se on his part caused the Third Circuit to revoke his membership and this Court to initiate reciprocal proceedings. However, USCIT Rule 74(e)(4)(B) authorizes this Court to take a reciprocal action in response to any disciplinary action taken by other courts. In this case, the Third Circuit revoked Mr. Martin's admission ab initio through formal proceedings before that court's Standing Committee on Attorney Discipline. See, e.g., In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 2. Most importantly, this

case is not about whether a revocation of admission to a court's bar constitutes a disciplinary action. At issue here is Mr. Martin's eligibility to be a member of this Court without any factual predicate to support his admission pursuant to USCIT Rule 74(a).

Mr. Martin's Motion for Appointment of Investigative Counsel under USCIT Rule 74(e)(5)[3] and Motion for Sanctions also lack merit because they fail to allege Mr. Martin's legal basis for investigative proceedings concerning his state bar memberships. Mr. Martin raises unsubstantiated claims about the Delaware state bar's decision to deny him admission and the Third Circuit's proceedings revoking his admission. See Resp't Mot. Dismiss 116-7; Resp't Mot. for Appointment of Investigative Counsel Par. 13. In essence, Mr. Martin seeks to make use of this Court's rules to initiate a procedure to challenge the state bar's decision concerning his bar admission[4] However, the USCIT Rules 74(e)(4) and 74(e)(5) do not provide for such cause of action.

Most importantly, this Court has no jurisdiction to review a state bar's decision to deny an attorney admission to its bar. It is well-established that "orders of a state court relating to the admission, discipline, and disbarment of members of its bar may be reviewed only by the Supreme Court of the United States on certiorari to the state court, and not by means of an original action in a lower federal court."[5] District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483 n.16 (1983) (quoting MacKay v. Nesbett, 412 F.2d 846, 846 (9th Cir.1969)) (emphasis added). Based on this rule, the U.S. Court of Appeals for the Fourth Circuit affirmed the judgments of the U.S. District Court for

the District of Maryland and the U.S. District Court for the Eastern District of Virginia dismissing Mr. Martin's claims against the Virginia and Maryland state bars. Martin v. Court of Appeals of Maryland, 870 F.2d 655, 1989 WL 21402, at * 1(4th Cir. March 7, 1989). As this Court lacks jurisdiction to review a state bar's decision, Mr. Martin's Motion for Appointment of Investigative Counsel under USCIT Rule 74(e)(5) and Motion for Sanctions are denied.

The record demonstrates that Mr. Martin's admission to this Court's bar was predicated on a mistaken factual predicate that was resolved by the Third Circuit's ab initio revocation of Mr. Martin's admission to its court's bar. Furthermore, Mr. Martin did not present in his motions evidence of being a member in good standing of a state bar or a federal court bar to support his admission and membership in this Court. Mr. Martin's admission to this Court is therefore invalid ab initio.

For the foregoing reasons, it is hereby

ORDERED that the admission of James L. Martin to the bar of the United States Court of International Trade be revoked; and it is further

ORDERED that the Clerk of the Court strike the name of James L. Martin from the roster of attorneys admitted to practice before the United States Court of International Trade.

Judith M. Barzilay, Judge

Footnotes

fn1Martin initially applied for admission to the bars of the District of Columbia, Pennsylvania, and New Jersey, passing the written portions of the respective bar examinations. In re James Lee Martin, 120 F.3d 256, 257 (3d Cir.1997). The highest courts of Pennsylvania, Maryland, and the District of Columbia never admitted Mr. Martin "because of concerns surrounding [his] moral character and fitness to practice law." Id. Even though the Committee on Character of the New Jersey Board of Bar Examiners had not reached a conclusion regarding Mr. Martin's fitness to practice law, Mr. Martin was mistakenly issued a signature card and a certificate of good standing from the New Jersey Bar in March of 1984. Martin v. Townsend, 1990 WL 138546, at * 1(D.N.J. Sept. 19,1990). A month later, Mr. Martin was notified by letter dated April 30, 1984, that the two documents were issued in error and he was asked to return the certificate. Id. Prior to receiving this letter, Mr. Martin used the certificate to obtain a license from the United States District Court for the District of New Jersey and a license from the United States Tax Court. Id. Based on the memberships in these courts, he then routinely gained admission to other federal courts. In the Matter of Martin, C.A. Misc. R. No. 97-8096, at 7-8.

fn2Mr. Martin's membership in the U.S. Court of Appeals for the Armed Forces was revoked on July 30, 1998.

fn3USCIT Rule 74(e)(5) provides that "[w]henever it becomes necessary to investigate, prosecute or defend disciplinary proceedings under this rule, the chief judge . . . may appoint one or more members of the bar of the court to serve as counsel.... [who] may. cause subpoenas

to issue, returnable before the judge presiding over the disciplinary matter."

fn4The court has also received during this action a Motion for Additional Time, a Protective Order and to Quash filed by two officials from the Widener University School of Law in New Castle County, Delaware, who were sent subpoena forms by Mr. Martin in an attempt to pursue this improper line of argument. Because this Order denies Mr. Martin's motions and terminates this proceeding entirely, the court need not decide this motion.

fn5United States District Courts "have subject matter jurisdiction over general challenges to state bar rules, promulgated by state courts in non judicial proceedings, which do not require review of a final state court judgment in a particular case. They do not have jurisdiction, however, over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional. Review of those decisions may be had only in this Court." Feldman, 460 U.S. at 486 (emphasis added).

Court No.: Misc. 04-00002
UNITED STATES COURT OF INTERNATIONAL TRADE

HON. JUDITH M. BARZILAY, JUDGE

IN THE MATTER OF JAMES L. MARTIN

MEMORANDUM ORDER

This matter is before the court on the motion for rehearing and motion to alter or amend this court's order issued on October 15, 2004. See In the Matter of James L. Martin, Misc. 0400002, Mem. Order, Oct. 15, 2004. This matter involves James L. Martin's admission to practice as an active member in good standing of this Court's bar. The Court's order to show cause dated July 26, 2004 directed Mr. Martin to inform the Court why his admission to practice should not be revoked following the decision of the U.S. Court of Appeals for the Third Circuit revoking his membership ab initio.[1] Mr. Martin responded by filing a Motion to Dismiss, a Motion for Appointment of Investigative Counsel under Rule 74(e)(5) and a Motion for Sanctions. This court denied Mr. Martin's motions and revoked his admission to this Court's bar for lack of an underlying membership in good standing in any state bar or a federal court bar. See In the Matter of James L. Martin, Misc. 04-00002, Mem. Order, Oct. 15, 2004. Mr. Martin desires that this court reconsider its decision to revoke his admission on the basis of USCIT Rule 74(e)(4)(C).[2] For the following reasons, Petitioner's motion for rehearing and motion to alter or amend the judgement issued on October 15, 2004 are denied.

The grant of a motion for reconsideration is within the sound discretion of the court. Union Camp Corp. v. United States, 21 CIT 371, 963 F. Supp.1212,1213 (1997). "It is well established that the court will not disturb its decision unless it is `manifestly erroneous.'" Ammex, Inc. v. United States, 26 CIT 510, 511, 201 F. Supp. 2d 1374, 1375 (2002) (internal citation omitted). Petitioner has not demonstrated any circumstances that render this court's decision manifestly erroneous.

This court revoked Mr. Martin's admission because Mr. Martin's admission to this Court's bar was predicated on a mistaken factual predicate: that he was a member of the U.S. Court of Appeals for the Third Circuit. Mr. Martin's membership in the Third Circuit was revoked ab initio for lack of an underlying state bar membership. This court also considered that during the course of these proceedings Mr. Martin did not present evidence of his being a member in good standing of any federal court bar or state bar. The court's memorandum order explained that this Court has no jurisdiction to review a state bar's decision denying an attorney admission to its bar.[3] Nonetheless, Mr. Martin desires that this Court review certain state proceedings that resulted in revocation of his admission to the Pennsylvania and New Jersey state bars. This court cannot grant a motion for rehearing based on allegations in matters that are outside its jurisdictional reach.

Mr. Martin again claims that the Third Circuit's revocation proceedings deprived him of due process. He now avers that the U.S. Court of Appeals for the Third Circuit's opinion revoking Mr. Martin's

admission, see In Re James Lee Martin, 120 F.3d 256 (3d Cir. 1997), "cited the decisions from recused and disqualified judges, even though such decisions were void" because certain judges had or should have recused themselves from presiding over Mr. Martin's actions related to his state bar admissions. See Mr. Martin's Mot. for Reh'g, at 3-4, Pars. 4-5. In addition to making these blanket assertions, Mr. Martin fails to demonstrate how these assertions would discredit the Third Circuit's decision to revoke his admission to its court's bar where the Third Circuit's opinion simply cited to those cases as to "additional background concerning the circumstances of Martin's efforts to gain admission to the [New Jersey] bar." See In Re James Lee Martin, 120 F.3d at 257 n.2. Importantly, the Third Circuit's decision was based on its conclusion that "[w]ithout membership in a state bar or admission to practice before the highest court of a state, a federal court is without authority in the first instance to grant bar membership." Id. at 259.

Mr. Martin also claims that this court's decision was silent on his claim that the Clerk of this Court requested Mr. Martin in July 2004 to show cause why his admission to this Court's bar should not be revoked despite the earlier grant of stay of disciplinary proceedings against Mr. Martin in December 1998, pending the resolution of Mr. Martin's action related to a state bar membership. Mr. Martin explains that he ceased updating this Court on the status of his Pennsylvania action in December 2002, allegedly after the Court's operations manager told him that he was in good standing and no longer needed to provide semiannual reports to the Court. See Mr. Martin's Mot. for Reh'g, at 17, Pars. 36-37; Letter from CIT Clerk of the Court Raymond F. Burghardt dated

Feb. 2, 1999, Ex. 41 a. This claim has no bearing on this Court's revocation proceedings as Mr. Martin was not disciplined for his failure to update this Court on the status of his standing in another court's bar. In July 2004, in response to Mr. Martin's request for an updated Certificate of Good Standing, this Court initiated the disciplinary proceedings pursuant to USCIT Rule 74. Mr. Martin was given notice of the revocation proceedings and had ample opportunity to show cause why his admission in this Court's bar should not have been revoked.

Finally, Mr. Martin asserts that this court's order was "factually incorrect" because the court concluded that Mr. Martin was not a member in good standing in any other federal court. See Mr. Martin's Mot. for Reh g, at 19, Par. 42. Mr. Martin did not offer any hard evidence of his membership in any state bar or federal court bar during his opportunity to show cause. See Martin's Mot. to Dismiss; Martin's Mot. for Appointment of Investigative Counsel. In his motion for rehearing, Mr. Martin claims that he is "a member in good standing in the [U.S. Court of Appeals for the] Seventh Circuit," presenting a copy of the Certificate of Good Standing issued by the Seventh Circuit on July 28, 2004. See Mr. Martin's Mot. for Reh'g, at 19, Par. 42; Ex. 103a. The court contacted the Clerk's Office of the Seventh Circuit and was informed that, although Mr. Martin is still a member of that court's bar, he is currently subject to certain disciplinary proceedings. Mr. Martin did not disclose this in his motion for rehearing, and this Court cannot give any weight to Mr. Martin's unsupported assertion that he is also a member in "other Circuit Courts of Appeals." The court notes, however, that Mr. Martin can reapply for admission to

this Court's bar by showing that he is a member in good standing of either a state bar or a federal court's bar as required by USCIT Rule 74(a).

Because the court does not find that its decision was manifestly erroneous, it is hereby ORDERED that Petitioner's motion for rehearing and motion to alter or amend the judgement issued on October 15, 2004 are denied.

Footnotes

fn1Mr. Martin was admitted to this Court's bar on December 9, 1996 based on his membership in good standing in the U.S. Court of Appeals for the Third Circuit on June 21, 1996.

fn2USCIT Rule 74(e)(4)(C) in pertinent part provides:

A final adjudication in another court that an attorney has committed misconduct shall conclusively establish the misconduct. However, if the attorney's response demonstrates that:
(i)the procedure in the other court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
(ii)there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject ...
the court shall enter an appropriate order.

fn3 It is well-established that "orders of a state court relating to the admission, discipline, and disbarment

of members of its bar may be reviewed only by the Supreme Court of the United States on certiorari to the state court, and not by means of an original action in a lower federal court." District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483 n.16 (1983) (quoting MacKay v. Nesbett, 412 F.2d 846, 846 (9th Cir.1969)) (emphasis added). See this court's discussion on the rules governing attorney admission to the CIT bar in In the Matter of James L. Martin, Misc. 04-00002, Mem. Order, Oct. 15, 2004.

UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

717 Madison Place, N.W.

Washington, D.C. 20439

MAY 12 2005

James L. Martin
805 West 21th Street
Wilmington, DE 19802-3957

Re: Appeal 05-1226, in re Martin

Dear Mr. Martin:

This letter is in reference to your motion to have Chief Judge Michel, Judges Newman, Mayer, Lourie, Clevenger, Rader, Schall, Bryson, Gajarsa, and Senior Judges Cowen, Friedman, Archer, and Plager recuse themselves from hearing the merits of your appeal, 05-1226.

The practice in this court is to randomly assign three judges to constitute a merits panel after the briefing is completed and the appendix is filed. In your case, no panel has yet been assigned. In the event that any of the judges mentioned above are assigned to hear your appeal, your motion to recuse will be forwarded to that judge for a ruling. If one of the named judges is not named to the panel, that judge will not rule on the motion.

Very truly yours,
Jan Horbaly

05-1226

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

IN RE JAMES L. MARTIN

ORDER

Upon consideration of appellant's motion to recuse and disqualify certain judges of this court because they participated in a prior decision regarding this matter,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

Dated: October 14, 2005

05-1226

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

IN RE JAMES L. MARTIN

ORDER

James L. Martin moves to strike or vacate the court's October 14, denying his motion to recuse and to disqualify.

Upon consideration thereof, IT IS ORDERED THAT: The motion is denied.

FOR THE COURT

November 1, 2005

Filed 6/22/06

SUPREME COURT OF NEW JERSEY
D-159 September Term 2005

IN THE MATTER OF MARY J. MAUDSLEY, AN ATTORNEY AT LAW

(Attorney No. 018181974)

ORDER

This matter having come before the Court as an appeal as of right filed by James Martin, and the Court having determined that James Martin lacks standing to proceed, it is ORDERED that the notice of appeal is dismissed.

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 21st day of June, 2006.

(2)

No. 06-55

FILED
OCT 27 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

JAMES LEE MARTIN, PETITIONER

v.

UNITED STATES COURT
OF INTERNATIONAL TRADE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

PETITION FOR REHEARING

James Lee Martin, Esquire
pro se
805 W. 21st St.
Wilmington, DE 19802-3818
(302) 652-3957

CURRY & TAYLOR ♦ WASH D.C. ♦ (202) 393-4141 ♦ USSCINFO.COM

ISSUES PRESENTED FOR REVIEW ON REHEARING

A. Must a justice issue a decision on an Application for his Recusal?

B. Must documents properly and timely prepared be docketed, rather than merely stamped received, then disregarded without ever being docketed, or decided, after they are presented to filing clerks at the Supreme Court?

CITATIONS OF REPORTS OF ORDERS ENTERED BY THE COURT

The 10-2-06 Order denying the certiorari petition is attached at 1a.

AUTHORITY RELIED UPON

28 USC Sec. 47, No judge shall hear or determine an appeal from the decision of a case or issue tried by him.

RESTATEMENT OF THE CASE

Facts. Various recusal applications have not been docketed or, if they have been, have not been ruled upon. The recusal application directed to Chief Justice Roberts has not been ruled upon, even though it has been pending since it was docketed on 7-27-06. Similarly, because Justice Alito served as a trial judge on the same issue when it was before the Third Circuit, he was not eligible to participate in a decision here, and should have been disqualified under Sec. 47. I filed an Application for Disqualification of Justice Alito that

was stamped received October 5, 2006, but not docketed. That entire Application is incorporated herein by reference, and it describes the misrepresentations Justice Alito included on his statement to the Senate in response to questions about litigants who moved for his recusal during his tenure on the Third Circuit. Those misrepresentations specifically relate to this petitioner, and overlapping issues that continue to arise here.

An Application for Extension of Time to file a Petition for Rehearing, stamped received October 22, 2006, does not appear on the docket yet, and based on prior abuses here, may never appear on the docket, so that no decision on it is ever issued. That document was served on 10-7-06.

REASONS THE PETITION SHOULD BE GRANTED

A. A justice should issue a decision on an Application for his Recusal.

See the recusal statute, 28 USC Sec. 47, and related cases dealing with abuses like the ones recited here, where ineligible judges persist with presiding over cases, and disregard motions filed for their recusals.

B. Applications, Motions, and other documents properly and timely prepared should be docketed, rather than merely stamped received, then disregarded without ever being docketed, or decided.

The Application for Extension that was filed on 10-22-06, and served on 10-7-06, should be docketed, and decided. Disregard for basic court procedures allows

abuses, like the ones recited here, to continue without recourse.

CONCUSION

Rehearing should be granted to prohibit the current practice of undermining access to the court, with the receipt but not docketing of legal documents, after they are properly and timely presented for filing.

James L. Martin, attorney and petitioner

CERTIFICATION OF COUNSEL

I, James L. Martin, certify that this Petition for Rehearing is presented in good faith and not for delay, and is directed to the Order of this Court entered on 10-2-06, which denied my Petition for a Writ of Certiorari. Its grounds are limited to intervening circumstances of substantial or controlling effect, or to other substantial grounds not previously presented.

DATED: October 27, 2006

BY:
James L. Martin